

APPENDIX D

FY 2002 CONTINUING RESOLUTION TEXT AND OMB APPORTIONMENT BULLETIN

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Public Law 107-44

107th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 2002, and for other purposes. <<NOTE: Sept. 28, 2001 - [H.J. Res. 65]>>

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2002, and for other purposes, namely:

Sec. 101. (a)(1) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2001 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2001 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

(A) the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002;

(B) the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(C) the Energy and Water Development Appropriations Act, 2002;

(D) the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956;

(E) the Department of the Interior and Related Agencies Appropriations Act, 2002;

(F) the Legislative Branch Appropriations Act, 2002;

- (G) the Military Construction Appropriations Act, 2002;
- (H) the Department of Transportation and Related Agencies Appropriations Act, 2002;
- (I) the Treasury and General Government Appropriations Act, 2002; and
- (J) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002:

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Provided, That whenever the amount which would be made available or the authority which would be granted in these Acts as passed by the House and Senate as of October 1, 2001, is different than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate: Provided further, That whenever there is no amount made available under any of these appropriations Acts as passed by the House and Senate as of October 1, 2001, for a continuing project or activity which was conducted in fiscal year 2001 and for which there is fiscal year 2002 funding included in the budget request, the pertinent project or activity shall be continued at the rate for current operations under the authority and conditions provided in the applicable appropriations Act for fiscal year 2001.

(2) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 2001, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 2001, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for fiscal year 2001.

(3) Whenever an Act listed in this subsection has been passed by only the House or only the Senate as of October 1, 2001, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for fiscal year 2001: Provided, That whenever there is no amount made available under any of these appropriations Acts as passed by the House or the Senate as of October 1, 2001, for a continuing project or activity which was conducted in fiscal year 2001 and for which there is fiscal year 2002 funding included in the budget request, the pertinent project or activity shall be continued at the rate for current operations under the authority and conditions provided in the applicable appropriations Act for fiscal year 2001.

(b) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year

2001 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2001, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available in the following appropriations Acts:

- (1) the Department of Defense Appropriations Act, 2001, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)); and
- (2) the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001; and
- (3) the District of Columbia Appropriations Act, 2001.

Sec. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 2001 or prior years, for the increase in production rates above those sustained with fiscal year 2001 funds, or to initiate, resume, or continue any project, activity, operation, or
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organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during fiscal year 2001: Provided, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

Sec. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

Sec. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2001.

Sec. 105. No provision which is included in an appropriations Act listed in section 101(a) but which was not included in the applicable appropriations Act for fiscal year 2001 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

Sec. 106. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred

for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

Sec. 107. <<NOTE: Expiration date.>> Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 16, 2001, whichever first occurs.

Sec. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Sec. 109. No provision in any appropriations Act for fiscal year 2002 listed in section 101(a) that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 107(c) of this joint resolution.

Sec. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Sec. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

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Sec. 112. Notwithstanding any other provision of this joint resolution, except section 107, for those programs that had high initial rates of operation or complete distribution of fiscal year 2001 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2002 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

Sec. 113. Activities authorized by sections 1319 and 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) may continue through the date specified in section 107(c) of this joint resolution.

Sec. 114. Activities authorized by title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, may continue through the date

specified in section 107(c) of this joint resolution.

Sec. 115. Activities authorized by section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of Public Law 103-428, may continue through the date specified in section 107(c) of this joint resolution.

Sec. 116. Activities authorized by chapter 2 of title II of the Trade Act of 1974 shall continue through the date specified in section 107(c) of this joint resolution.

Sec. 117. Activities authorized by subsection (f) of section 403 of Public Law 103-356 may continue through the date specified in section 107(c) of this joint resolution.

Sec. 118. Notwithstanding any other provision of this joint resolution, except section 107, the Library of Congress may temporarily transfer to the revolving fund established under section 103 of Public Law 106-481 amounts to continue program operations at a rate not exceeding the rate under authority applicable prior to October 1, 2001.

Sec. 119. Of amounts provided by section 101 of this joint resolution, for projects and activities that would be funded under the heading ``International Organizations and Conferences, Contributions to International Organizations" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, \$100,000,000 may be made available only pursuant to a certification by the Secretary of State that the United Nations has taken no action in calendar year 2001 prior to the date of enactment of this Act to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations to exceed the budget for the biennium 2000-2001 of \$2,535,700,000.

Sec. 120. Notwithstanding any other provision of this joint resolution, in the event that H.R. 1088, the Investor and Capital Markets Fee Relief Act, or other legislation to amend section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)), and sections 13(e), 14(g), and 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e), 78n(g), and 78ee), is enacted into law during the period covered by this joint resolution, the fees, charges, and assessments authorized by such sections, as amended, shall be deposited and credited as offsetting collections to the account that provides appropriations to the Securities and Exchange Commission.

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Sec. 121. Collection and use of maintenance fees as authorized by section 4(i) and 4(k) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a-1(i) and (k)) may continue through the date specified in section 107(c) of this joint resolution. Prohibitions against collecting ``other fees" as described in section 4(i)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a-1(i)(6)) shall continue in effect through the date

specified in section 107(c) of this joint resolution.

Sec. 122. Notwithstanding section 106 of this joint resolution, funds made available in Public Law 107-38 are not limited by the terms and conditions of this joint resolution.

Approved September 28, 2001.

LEGISLATIVE HISTORY--H.J. Res. 65:

CONGRESSIONAL RECORD, Vol. 147 (2001):

Sept. 24, considered and passed House.

Sept. 25, considered and passed Senate.

<all>

Office of Management and Budget (Text Only)

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September 27, 2001

BULLETIN NO. 01-10

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Apportionment of the Continuing Resolution(s) for Fiscal Year 2002

1. **Purpose and Background.** H. J. Res 65 will provide continuing appropriations for the period October 1 through October 16, 2001. I am providing an automatic apportionment for amounts provided by this continuing resolution (CR), and any extensions of this CR, as specified in section 2. This Bulletin supplements instructions for apportionment of CRs in OMB Circular No. A-34.

Further, I am providing an automatic apportionment of any unobligated balances available on October 1, 2001, from the amounts transferred from the Emergency Response Fund to individual agency accounts pursuant to the determination of the President on **September 21, 2001**.

2. **Automatic Apportionments.** Calculate the amount automatically apportioned through the period ending October 16, 2001 (and any extensions of that period) by multiplying the rate (amount) provided by the CR by the lower of:

- the percentage of the year covered by the CR, or
- the historical seasonal rate of obligations for the period of the year covered by the CR.

See the Attachment to this Bulletin for more detailed instructions on calculating the amount automatically apportioned.

Under an automatic apportionment, all of the footnotes and conditions placed on the prior year apportionment remain in effect.

The CR expires at midnight on Tuesday, October 16, 2001.

3. **Written Apportionments.** If a program requires an amount different from the total amount automatically apportioned, you must request a written apportionment

/s/

Mitchell E. Daniels, Jr.

Director

Attachment

Calculating the Automatic Apportionment

Calculate the amount automatically apportioned through the period ending October 16, 2001 (and any extensions of that period) by multiplying the **rate (amount) provided by the CR** by the lower of:

- the **percentage of the year** covered by the CR (rounded to the nearest tenth), or
- the **historical seasonal rate** of obligations for the period of the year covered by the CR.

1. What is the rate (amount) provided by the CR? The rate (amount) provided by the CR could be one of the following *annual* amounts:

- the *current rate*, calculated as follows:
 - take the net amount enacted in FY 2001, i.e., add any supplemental appropriations and subtract any rescissions; and
 - add the unobligated balance carried forward to FY 2001 (if any); or
- the rate of operations *not exceeding the current rate*, calculated as follows:
 - take the net amount enacted in FY 2001, i.e., add any supplemental appropriations and subtract any rescissions;
 - add the unobligated balance carried forward to FY 2001 (if any), and
 - subtract the unobligated balance at the end of FY 2001 (if any).

2. Which of the annual amounts do I use?

If	Then use
The project or activity meets <u>all</u> the following criteria: <ul style="list-style-type: none">• zero funded in the Act passed by both houses by October 1 or is zero funded in the Act passed by the one house by October 1;• included in the President's budget request;• was conducted in FY 2001; and• is included in an act other than the Department of Defense Appropriations Act, 2001, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001, or the District of Columbia Appropriations Act, 2001.	FY 2001 (the <i>current rate</i>)
All other cases	The rate of operations <i>not exceeding the current rate</i> .

3. Does the continuing resolution affect the availability of funds that would be available if H. J. Res. 65 had not been enacted?

No. The availability of any part of the budgetary resources for an account that is not determined by current action of the Congress (such as permanent appropriations, public

enterprise and other revolving funds, reimbursements and other income, and balances of prior year budget authority) are not affected by H. J. Res. 65.

Most of these budgetary resources must be apportioned by OMB before obligation. This Bulletin does not apportion those budgetary resources, except unobligated balances on October 1, 2001, from amounts transferred from the Emergency Response Fund to individual agency accounts pursuant to the determination of the President on **September 21, 2001**.